



LOCAL GOVERNMENTS CREATION AND THE PROSPECTS OF AREA DEVELOPMENT BOARD IN NIGERIA

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Abstract

The objective of this paper is to examine the problems of new local governments created by some states in Nigeria despite the challenges facing the old local governments. The constitution of the federal republic of Nigeria empowered the state governments to create local governments but such local governments are subject to recognition by the national assembly. Due to politics and other reasons many states governments embarked on the creation of local governments without recognition by the National assembly which lead to mockery of the state by federal government. Descriptive approach was carried out using secondary data. The findings revealed politics behind the creation of such local governments, lack of continuity as well as inadequate funding. The paper suggests consolidation on the existing local governments instead of adding more burdens on them as well as developing alternatives ways of funding in order to ensure their sustainability.

Key words: Local government; Area Development, Constitution.

1.0 INTRODUCTION

The crucial issues that have generated controversy in recent times in Nigeria's fiscal finances are the creation of new local governments and the management of state joint local government accounts. On the creation of new local governments by state governments, the implications are far reaching. At present local government are finding it difficult to operate as a third tier of government because of the limited funding. This was further exacerbated by the creation of new local governments. The sheer high overhead cost of running 774 local governments has almost crippled the capacity of local governments to deliver social services to the people. The situation has worsened since the creation of new local governments by some states in Nigeria. The basic concern is the economic, political and legal implications of this by increasing the number of local governments in the state, one or two things are bound to happen- the overhead cost of administration of local governments and quest for their sustainability. On the issue of state local government account, there are allegations that states are tempering with the statutory allocations to local governments from the federation account thereby leaving them with little or nothing to settle recurrent. The political elites do mobilize groups on ethno-regional interests to campaign for local government creation and development. These elites often argue that local government creation fosters growth and development, bring government nearer to the people, prevent racour and ensure popular participation as the critical bases for creating local governments. The political class argues for local government creation to foster access to statist institutions and structures and engender political inclusion of marginalized sub-nationalities. These arguments of the political elite are flawed in the light of the historicity of local government creation and its politics in Nigeria. The political classes are the greater beneficiaries; the replications of local government structures provide new bases of political competition and patronage. The local governments are domains of political contestations among factions for political class for strategic self serving advantage. The seven hundred and forty four local structure had not eased the agitation for local government creation; rather new social forces align and re-align to canvass for new spheres of control and influence. The poor viable status of the local government has further vitiated the argument for local government creation. The local government except a few depend on the federation account and least generates internal earnings. The dependant nature of the local government, therefore, creates a subordinate status to the state government. The country's federal structure is thus hampered by the lopsided financial relations of the state and local relations. The Governor of such states use the avenue as way of promoting popular support and patronage leading to so

many problems facing local governments in Nigeria. This paper depicts the historical reality of the local government as unviable, poor, underdeveloped and unsustainable. The local government are not promoting development, politically or economically. The creation of new local will be uncreative means of dealing with aspects of the national question in Nigeria. The local government has been corrupt, alienating and barely impacts on the local populace. It is urgent to re-think local government as a basis to meditate local government creation agitation. The cost of government has been huge and a burden on the economy; it is not realistic to create new local government (Danjuma, Sanusi and Kirfi, 2012). The paper intends to look at the prospect of newly created local governments in Nigeria which is known with different names, such as area development board, others viewed it as fourth tier of government and the paper is divided into four parts. Part one is an introduction, part two examines constitutional provision for the creation of new local governments, part three identify the problems of new local government in Nigeria and the last part is the conclusion and recommendations on how to ensure viable local governments in Nigeria.

2.0 CONSTITUTION AND QUEST FOR THE CREATION OF LOCAL GOVERNMENTS IN NIGERIA

Nigeria is a federal state, by federation its means there is division of powers between the three tiers of governments (federal, states and local governments). The constitution of the federal republic of Nigeria reposed powers for the creation of local government in the hand of state governments but subject to recognition by the National House of Assembly. Apata (2011) observed that the reasons for creation of local government in any country include economic viability, bringing people of the same cultured and for socio-political development. Section 7 of the constitution stated as thus:

The system of local government by democratically elected local government councils is under this Constitution guaranteed; and accordingly, the Government of every State shall, subject to section 8 of this Constitution, ensure their existence under a Law which provides for the establishment, structure, composition, finance and functions of such councils.

The person authorized by law to prescribe the area over which a local government council may exercise authority shall-

- (a) define such area as clearly as practicable; and
- (b) ensure, to the extent to which it may be reasonably justifiable that in defining such area regard is paid to -
 - (i) the common interest of the community in the area;
 - (ii) traditional association of the community; and
 - (iii) administrative convenience Constitution of federal republic of Nigeria (1999).

It shall be the duty of a local government council within the State to participate in economic planning and development of the area referred to in subsection (2) of this section and to this end an economic planning board shall be established by a Law enacted by the House of Assembly of the State. The Government of a State shall ensure that every person who is entitled to vote or be voted for at an election to House of Assembly shall have the right to vote or be voted for at an election to a local government council. The functions to be conferred by Law upon local government council shall include those set out in the Fourth Schedule to this Constitution.

(a) the National Assembly shall make provisions for statutory allocation of public revenue to local government councils in the Federation; and

(b) the House of Assembly of a State shall make provisions for statutory allocation of public revenue to local government councils within the State Constitution of federal republic of Nigeria (1999).

Nigeria's federalism is a constitutional arrangement with three tiers of government: Federal, State and Local governments. These tiers of government have functions which are to some extent, independent and clearly specified in the constitution Danjuma (2012). However, the constitution does not prohibit the state government, through the House of Assembly, from establishing or laying out a structure or system for the third tier local government or town union administration. Perhaps, this provided the basis for the intention to establish the fourth tier government which is also called Community Government Council. The concept of fourth tier government may be easily understood, in its simplest form, as a sub-arm of government that brings dividends of democracy of the government in power to the grass roots through the use of a community governing council.

Under this arrangement, traditional ruler, town union executives of the autonomous community, other appointed and elected indigenes are to be empowered to participate in governance Emmanuel (2012).

Also an Act of the National Assembly for the purpose of creating a new State shall only be passed if-

(a) a request, supported by at least two-thirds majority of members (representing the area demanding the creation of the new State) in each of the following, namely -

(i) the Senate and the House of Representatives,

(ii) the House of Assembly in respect of the area, and

(iii) the local government councils in respect of the area, is received by the National Assembly;

(b) a proposal for the creation of the State is thereafter approved in a referendum by at least two-thirds majority of the people of the area where the demand for creation of the State originated;

(c) the result of the referendum is then approved by a simple majority of all the States of the Federation supported by a simple majority of members of the Houses of Assembly; and

(d) the proposal is approved by a resolution passed by two-thirds majority of members of each House of the National Assembly Constitution of federal republic of Nigeria (1999).

An Act of the National Assembly for the purpose of boundary adjustment of any existing State shall only be passed if-

(a) a request for the boundary adjustment, supported by two-thirds majority of members (representing the area demanding and the area affected by the boundary adjustment) in each of the following, namely-

(i) the Senate and the House of Representatives,

(ii) the House of Assembly in respect of the area, and

(iii) the local government councils in respect of the area. is received by the National Assembly; and

(b) a proposal for the boundary adjustment is approved by –

(i) a simple majority of members of each House of the National Assembly, and

(ii) a simple majority of members of the House of Assembly in respect of the area concerned.

A bill for a Law of a House of Assembly for the purpose of creating a new local government area shall only be passed if -

(a) a request supported by at least two-thirds majority of members (representing the area demanding the creation of the new local government area) in each of the following, namely -

(i) the House of Assembly in respect of the area, and

(ii) the local government councils in respect of the area, is received by the House of Assembly;

(b) a proposal for the creation of the local government area is thereafter approved in a referendum by at least two-thirds majority of the people of the local government area where the demand for the proposed local government area originated;

(c) the result of the referendum is then approved by a simple majority of the members in each local government council in a majority of all the local government councils in the State; and

(d) the result of the referendum is approved by a resolution passed by two-thirds majority of members of the House of Assembly Constitution of federal republic of Nigeria 1999.).

A bill for a Law of House of Assembly for the purpose of boundary adjustment of any existing local government area shall only be passed if-

(a) a request for the boundary adjustment is supported by two-thirds majority of members (representing the area demanding and the area affected by the boundary adjustment) in each of the following, namely -

(i) the House of Assembly in respect of the area, and

(ii) the local government council in respect of the area, is received by the House of Assembly; and

(b) a proposal for the boundary adjustment is approved by a simple majority of members of the House of Assembly in respect of the area concerned.

An Act of the National Assembly passed in accordance with this section shall make consequential provisions with respect to the names and headquarters of State or Local government areas as provided in section 3 of this Constitution and in Parts I and II of the First Schedule to this Constitution Constitution of federal republic of Nigeria (1999)..

For the purpose of enabling the National Assembly to exercise the powers conferred upon it by subsection (5) of the section, each House of Assembly shall, after the creation of more local government areas pursuant to subsection (3) of this section, make adequate returns to each House of the National Assembly. The National Assembly may, subject to the provision of the section, alter any of the provisions of the Constitution Constitution of federal republic of Nigeria (1999). An Act of the National Assembly for the alteration of the Constitution, not being an Act to which section 8 of the Constitution applies, shall not be passed in either House of the National Assembly unless the proposal is supported by the votes of not less than two-thirds majority of all the members of that House and approved by resolution of the Houses of Assembly of not less than two-thirds of all the States.

The 1976 local government reforms was significance in the history of local government for provision of direct allocation to them. To further aliemorate the autonomy of local government Dasuki Committee was set up by military government in 1984 to look into the problems of local government. The 1988 civil service reform further strengthening local government autonomy in Nigeria through professionalization of the system and accountability. Also the 1991 reforms which confirm the executive control on the local government Chairmen was another epoch to the development of local government aim at establishing viable local governments. Adeyemo (2005) observed that heavy cost of implementation of policies couple with financial viability of local government negate the authority of local government.

Danjuma (2012) argued that many state governments especially during civilian administration 1999-to date embarked on creation of local governments but only few could see the light of the day due to many problems that bedeviled local governments, some perished after few years of their existence, while other suffered from problems ranging from politics, to lack of continuity, death of funds and inability of the national assembly to recognized it as a true tier of government due to politics of confrontation, mockery of state where the dominant party is not in control of such states. A clear picture of this was Lagos state, the state went ahead and created many area development council but were not recognized by the federal government due to party difference. Apata (2011) also observed that In the federal system like Nigeria, the role of national assembly in the creation of new local governments was listing them in the appropriate schedule of the constitution.

3.0 METHODOLOGY

The method of data collection for the study is based on content analysis; the data were source through publications such as budget estimates of the federal republic of Nigeria (government budget publications), annual reports of the organization in focus that is local governments, federal government statistical reports, and reports of the central bank of Nigeria, journals and news paper.

4.0 PROBLEMS OF NEW LOCAL GOVERNMENTS

Political reason: The new local governments in Nigeria were created for political reasons without taking into consideration of factors such as fund and their sustainability. As a result after their creation many of them could not see the light of the day. The result is that it led to lack of continuity of government policies, lack of cooperation from federal government, and created problems between state government and elected local government officials. Apata (2011) observed that the new local government created revolves around two simple questions. Firstly, whether the non-passage of a Consequential Amendment Act by the National Assembly can preclude a state from operating additional local governments, notwithstanding proper creation of same by such state? Secondly, whether full compliance with the new LGA creation procedure, under Section 8(3) of the 1999 Constitution, is insufficient to entitle a state to commence lawful operation of additional LGAs in view of the provisos under Sections 8(5) and 8(6) of same constitution. The National Assembly's involvement in any new LGA creation process is very marginal. Thus, the constitutional inclusion of the National Assembly in the creation process ought never to have been construed as imbuing the National Assembly with any iota of

discretionary powers to approve or disapprove of a decision already lawfully made by the people concerned. The National Assembly actually has a constitutional duty to give full effect to the decision already taken by such concerned people without delay.

This argument is supported by the wordings of Section 8 subsections (5) and (6) of the 1999 Constitution (as amended). Section 8 (5) provides that:

“An Act of the National Assembly passed in accordance with this section shall make consequential provisions with respect to the names and headquarters of state or Local Government Areas as provided in Section 3 and in Parts I and II of the First Schedule to this Constitution.”

Section 8 (6) goes further to provide that, *“For the purpose of enabling the National Assembly to exercise the power conferred upon it by subsection (5) of this Section, each House of Assembly shall, after the creation of more Local Government Areas pursuant to subsection (3) of this Section, make adequate returns to each House of the National Assembly”*

Lack of continuity: Another problem facing the fourth tier of government is lack of continuity. Such local governments could not see the light of the day once there is change of government. Emmanuel (2012) assert that lack of continuity in government policies and programmes, especially in their implementation, greatly hamper the progress of developmental activities in the country.

Shortage of fund: The old local government in Nigeria are seriously facing the problem of shortage of funds to further compound their problems some state government went ahead and created new local governments and resources have to be shared between the new and old local government which constituted problems toward development of local government due to little funding for maintenance of existing infrastructure and equipments. The problem of inadequate funding has remained biggest problem facing local government in Nigeria. Danjuma and Kwanga (2012) observed that for the developmental programme at local level in Nigeria to occur, local government needs to develop alternatives ways of sourcing funds.

Inadequate personnel: Qualified personnel are lacking in local governments due to low salary and motivation. There is influx of staff of local governments to other parastatals in search for greener pastures. The dearth of competent staff that will uplift the local governments image from its present status was as a result of low incentive given to the staff which cannot boost their moral and enhance the achievements of aims and objectives upon which the system was set up Danjuma and Kwanga (2012).

Duplication of office: The creation of area development board by some states in Nigeria has led to the duplication of offices thereby leading to the waste of resources. The new local government has the state and departments thereby leading to shortage of manpower.

Death of infrastructure: Lack of accessible infrastructures in the local government such as roads, water, electricity and accommodations. Danjuma and Ibrahim (2012) assert that rural areas lack social amenities such as portable water supply, good roads, electricity and so on leading to rural urban migration in Nigeria and constituting social malice to the urban centres such as armed robbery, prostitution, and rise of such groups such as Boko Haram.

Lack of recognition by federal government: Despite the fact that state has powers to create local government, but such local government have to be recognize by national assembly and enshrine in the constitution. The new local governments after their creation were left at the mercy of old local governments without the recognition by the central government and also without financial backing thus making mockery of state government especially the states control by opposition party. A good example of this is Lagos state that created the new local governments which lead to the clashes of interest between the federal government and the Lagos state.

Corruption:- Corruption is a cankerworm that is affecting almost every sectors of the economy in Nigeria, it has lead to the collapsed of many institutions, good policies and programmes of government could not see the light of the day due to corrupt practices of the populace. Appointment into government offices was seen as a way of looting the national treasury rather than service to the nation, this is also common in local governments administration in Nigeria. Emma (2012) asserts that local government in developed world has better management and transparency in funds than developing countries like Nigeria leading to under development of the nation. Also Nasir (2012) stated that:-

"In the year 2011, the 774 local governments and the area councils in Nigeria received almost ₦1 trillion from the federation account, which is equivalent to the entire annual budget of Burkina faso, Rwanda, Burundi and Togo combined. These transformation were to enable them carry out their functions.....nothing to show for this huge transfer of cash to the LGAs".

5.0 CONCLUSION

The study is about new local government created by some states in Nigeria despite the problems facing the existing old local governments, traditionally, state government posses absolute powers for creation of local government but the federal government have to recognize such local government in order to have powers and functions as well as financial backing thus after their creation such local government could not see the light of the day due to many factors such as lack of recognition by the federal government, inadequate funding, problem of intergovernmental fiscal relations, dearth of staff, corruption etc leading to under development in rural areas.

6.0 RECOMMENDATIONS

The following are some of the recommendation with the hope that if put in place will help in solving problems associated with local government in Nigeria.

1. Effective performance of their functions: local government should rise up to expectation of the masses instead of a place for money sharing at the end of the month.
2. Local government should Investment in viable projects to generates funds to ensure day to day running of local governments.
3. Federal government should ensure direct allocation of funds to local governments instead of joint account with the state governments.
4. Heavy punishment should be impose on officers found in corrupt practices.
5. Private partnership through private cooperation local government could yield an important revenue. Kabir (2007) opined that local government can only function effectively in Nigeria through public and private partnership.
6. Also local government should hire independent body to oversee the collection of their independent taxes in order to promote efficiency. Bariyima and Gladson (2009) added that the only way out of financial mismanagement in local government is through use of tax consultants by the government.
7. Imposition of available taxes: Most of the internal sources of revenue available to the local government are unharnessed, tax evasion and subject to misappropriation by the officers in-charge. These sources of revenue could improve their revenue generation if well harnessed.
8. Adequate record: The essence of keeping record is to ensure transparency and accountability at local government level because poor record keeping is the root of financial crisis local governments are experiencing today.
9. Assigning roles and responsibilities to local communities, although due to economic recession going on in the globe today almost all institutions in Nigeria are facing the problem of funding, government alone could no longer continue providing goods and services to the people as a result through sharing of role and responsibilities between local government and community might contribute greatly towards addressing financial problems facing local government in Nigeria Oviasuyi (2010) advocated that past government has neglected the rural communities with no significant developmental programmes to the people, he concluded that development could only occur at local government in Nigeria if there is involvement of local communities through sharing of responsibilities between the two parties.

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Table 1.0 States and new created local governments

State	Old local governments	New local governments	Total
Lagos	20	37	57
Kebbi	20	20	40
Ebonyi	13	23	34
Katsina	34	30	64
Nassarawa	13	16	29
Niger	25	17	42
Yobe	17	23	40

Source : Field survey 2012

From the table above, it show that many states created local government that are more than the old local governments for instance Lagos created 37 new area development council otherwise known as new local governments, Kebbi added another 20 area development council, Ebonyi state also created 23, Katsina state 30, Nassarawa state 16, Niger 17 and Yobe state created 23 without adequate funding especially during this period of global financial meltdown, the possibility of such local governments to see the light of the day is very meager.